(1)

Supreme Court, U.S.
FILED

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No.

OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

Larry D. Simpson

Petitioner

(Pro se litigant)

v.

Chris N. Galanos and the State of Alabama

Respondents

ON PETITION FOR WRIT OF CERTIORARI
UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Larry D. Simpson
Pro se Counsel of Record
1255 Quail St.
Mobile, AL 36605
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52 pp

QUESTIONS PRESENTED

I. Whether a State Circuit Judge, who ordered the illegal imprisonment, of a post District Court sentenced citizen/Federal citizen, is judicially immune from liability, under the Federal Civil Rights Statutes.

II. Whether a state judge can hide behind "judicial immunity", where said judge willfully, recklessly, with malice afore-thought violated petitioner's Civil Rights by denying him due process of law.

III. Whether a Federal Removal properly executed provides any protection against unconstitutional action by a state actor done under the color of State Law?

LIST OF PARTIES

All Parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition as follows:

1. Christ N. Coumanis, Esq.
   P. O. Box 43
   Mobile, AL 36601
   Attorney for Chris Galanos

2. State Attorney Bill Pryor
11 South Union Street
Montgomery, AL 36104

3. Billington M. Garrett
Assistant Attorney General
11 South Union Street
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OPINIONS BELOW

Petitioners respectfully prays that a Writ of Certiorari issue to review the judgment below:

The opinion of the U. S. District Court for Southern District of Alabama dated August 26, 1998 is unreported as of yet. It is reprinted in the Appendix A hereto at Appendix 1a-6a. The Motion to set aside judgment and reinstate case to active Federal Trial Docket dated, September 8, 1999. It is reprinted in the Appendix B hereto at Appendix 7a-11a. The U.S. District Court Final Order dated September 9, 1999 is unreported. It is reprinted in the Appendix C hereto at Appendix 12a-13a.

The petitioner excerpts of U.S. Court of Appeal brief dated January 4, 1999 and answer brief excerpts dated February 25, 1999 are unreported. They are reprinted in the Appendix hereto at Appendix D at 14a-16a and Appendix E 17a-20a. The motion for rehearing dated Oct. 26, 1999 is unreported. It is reprinted in the Appendix hereto at Appendix F at 21a-29a. Appendix G petition for rehearing denied dated December 8, 1999 is unreported. It is reprinted in the Appendix hereto at Appendix G at 31a-32a. The opinion of the U. S. Court of Appeals for the Eleventh Circuit judgment is reprinted in the Appendix hereto at Appendix H at 33a.

STATEMENT OF JURISDICTION

The opinion of the U. S. Court of Appeal for eleventh Circuit denying petition for Rehearing sought to be reviewed was entered December 8, 1999. It is unreported. It is reprinted in the Appendix hereto at Appendix H. This petition for Writ of Certiorari is timely filed March 7 2000. This Court has jurisdiction pursuant to Title 28 U.S.C. § 1254 (1).

CONSTITUTION PROVISIONS AND STATUTES

(1) United States Constitution, Amendment XIV, provides: ...Nor shall any State deprive any person of life, liberty, or property, without due process of law.

(2) 42 U.S.C. § 1983

(3) 28 U.S.C. §1446

(4) Fed. R.Civ. P. 8(a)

STATE

Alabama Code 1975, (Rule 30.5)
Title 12-12-70

STATEMENT OF THE CASE

This case involves the fundamental principles of due process, equal protection of the law, legislative intent of 42 U.S.C. § 1983 and the protection under the Federal Removal Act from state retaliatory action. The case as it relates to the of individual rights to due process when a U.S. District's Court chooses to rule on an issue, sua sponte, without allowing for a party's constitutional right to be heard.

United States District Judge Butler final order committed gross error in reasoning that immunity would apply to a state actor that was lawfully acting in anyway against petitioner which was a federal removal participant and subject matter participant at the county level (district court level) state-actor Galanos is a circuit level employee and he no automatic authority over the free person petitioner nor did he have legal authority to otherwise create participatory act resulting in damage to petitioner. See Sparkman v. McFarlin, 558 So. 2d 172 (1977).

On June 23, 1998 the petitioner -appellant filed a civil rights complaint with the United States District Court for the Southern District of Alabama seeking judgment and such other and different relief, to which petitioner - appellant may be entitled against respondent Appellees Chris N. Galanos and the respondent-Appellee State of Alabama (R-1/10).

The Respondent-Appellee Chris N. Galanos filed motion to dismiss and petitioner -appellant filed response objection to Appellee Chris N. Galanos motion (R6 through 12).

On August 26, 1998 the district court judge granted the Appellee Chris Galanos motion to dismiss and supplemental motion to dismiss (R-17).

On September 9, 1998 Petitioner-Appellant filed a post judgment motion to set aside judgment for the Respondents-Appellees which the District Court

judge denied (R18 through 19). On October 6, 1998 Petitioner-Appellant filed a Notice of Appeal (R20). On December 22, 1998 Petitioner-Appellant filed his brief to the United States Court of Appeals for the Eleventh Circuit. On January 4, 1999 Petitioner-Appellant filed a corrected brief. On February 3, 1999 Respondents-Appellees filed their brief. On February 25, 1999 Petitioner-Appellant filed his answer brief. The Court of Appeals for the Eleventh Circuit entered judgment for the Respondents on October 8, 1999 (Appendix H). Petitioner-Appellant filed his petition for Re-Hearing on October 26, 1999. The Court denied Petitioner-Appellant's petition for Re-Hearing on December 8, 1999 (Appendix G). Petitioner now has timely filed this Petition for Certiorari.

REASONS FOR GRANTING THE WRIT

This case involves the fundamental principles of due process, equal protection of the law, legislative intent of 42 U.S.C.§1983, and the protection under the Federal Removal Act from state retaliatory action. The case as it relates to the individual rights to due process when a U. S. District's Court chooses to rule on an issue, sua sponte, without allowing for a party's constitutional right to be heard.

The right to due process, at its core, reflects a fundamental scheme of regularized, orderly process. It is this process that gives those persons, like the petitioner, who are forced to settle their claims of right through the judicial process a sense of comfort that they will be given the opportunity to be heard before a final determination of rights. As Justice Harlan So passionately stated:

"Perhaps no characteristic of an organized and cohesive society is more fundamental than its erection and enforcement of a system of rules defining the various rights and duties of its members, enabling them to govern their affairs and definitively settle their differences in an orderly, predictable manner. Without such a legal system, social organization and cohesion are virtually impossible. With the ability to seek regularized resolution of conflicts, individuals are capable of their interdependent action that enables them to strive for achievements without the anxieties that would beset them in a disorganized society."

The common-law model that the American society has rested its systematic definition of individual rights and duties, as well as its machinery for dispute settlement Boddie v Connecticut, 401 U.S. 371, 374 (1971).

"By providing for, and enforcing this social and legal framework society can count on a regularized, orderly process of dispute settlement." *Id 375.*

"It is upon this premise that this court has through years of adjudication put flesh upon the due process principle." *Ibid.*

In short, the U.S. District Court's sua sponte ruling has

stripped the petitioner of individual rights without the opportunity for a hearing.

National impact: Federal removal protection is breach and this case highlights for the nation that a state actor is not immune from liability when such acts disrespect the Federal law. U.S. District Judge Butler the now and in this case the sitting judge erred by providing screen cover for the state actor because the state actor had no compulsory, mandated, or lawful charge or reason to pursue the petitioner in any way. Stump v Sparkman 435 U.S. 349 55L. Ed 2d 331 (1978).

CONCLUSION

The Fourteenth Amendment is preemptory. It provides that no state shall "deprive any person of life, liberty, or property without due process of law."

Given the record of evidence, statutory and constitutional contradiction, lack of authority, briefing lack of oral, and argument on the issue, it baffles common sense that the U. S. Court of Appeals for the Eleventh Circuit ruled for the respondents. As this Court has emphasized time and time again, the Due Process Clause grants an aggrieved party the opportunity to present their case and have its merits fairly judged. No such opportunity has been provided to petitoner. Here, the deprivation of petitioner's claim for relief is final. Unlike a claimant whose charge is dismissed on the merits for lack of evidence or whose claim is dismissed for failure to

comply with procedural rules, Petitioner cannot obtain further judicial review except to this Court. A system or procedure that deprives persons of their claims in a random manner, as is evident in the case here, cannot go uncorrected. Therefore, it is imperative that this Court give petitioner the due process opportunity it is entitled.

Respectfully submitted,

Larry D. Simpson
Pro Se Counsel of Record
1255 Quail St.
Mobile, AL 36605

APPENDIX A

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LARRY D. SIMPSON)
Plaintiff,)

) CIVIL ACTION NO. 98-0634-CB-M
v) ENTERED DATED, AUGUST 26, 1999

CHRIS GALANOS and)
the STATE OF ALABAMA)
Defendants,)

ORDER

This matter is before the Court on a motion to dismiss (Doc. 6) and a supplemental motion to dismiss (Doc. 7) filed by defendant Chris Galanos and on plaintiff's response thereto (Doc. 11). Defendant Galanos, a state circuit court judge, asserts that the action should be dismissed for failure to state a claim upon which relief can be granted because plaintiff's claims are barred by the doctrine of

Judicial immunity. Plaintiff, who is proceeding *pro se*, avers that he should be permitted an opportunity to amend his complaint to state his claims with more particularity. Because plaintiff does not dispute that his claims arise from official actions taken by Judge Galanos, the Court finds that permitting the defendant an opportunity to amend would be futile. Moreover, although the State of Alabama has not filed an answer to plaintiff's complaint, the Court finds, sua sponte, that plaintiff's claims against this defendant are also due to be dismissed.

Plaintiff has styled his claim as a civil rights complaint. The crux of plaintiff's complaint against Judge Galanos is that the judge signed a bench warrant for plaintiff's arrest after plaintiff attempted to remove a criminal action against plaintiff from state court to federal court. Plaintiff further avers

in his complaint:

With knowledge of the Federal Rights and Judicial Protection enjoyed by Plaintiff as of June 17, 1997 through June 1998, Chris Galanos and the State of Alabama purposely invaded Plaintiff's real property and person and caused Plaintiff to sustain great injury and hardship due to their intentional act of violating Plaintiff's Civil Rights and Federal Insurance (sic) Protection against Jurisdiction infringement, after Plaintiff elected not to participate (sic) in local Courts, located in Mobile County, Alabama.

Compl. ¶H. Plaintiff asserts that the defendants "violated Plaintiff's Civil Rights in every way, including Race Discrimination, equal protection and Constitutional Rights." Compl. ¶ L. Plaintiff's demand for relief is rather vague in that he seeks "judgment (sic) against Defendants and such other and different relief to which Plaintiff maybe (sic) entitled." Compl. p4. Since plaintiff asserts that his federal rights were violated by a state judge and by the state, the Court construes the complaint as one arising under

42 U.S.C. § 1983 See Monroe v. Pape, 365 U.S. 167, 171-72 (1961) (§ 1983 is vehicle for enforcing a violation of federal rights by state actors). However, a judge is entitled to immunity from suit for money damages under § 1983 if: (1) the judge dealt with the plaintiff in a judicial capacity and (2) the judge did not act in the clear absence of all jurisdiction. Simmons v. Conger, 86 F3d 1080, 1084-35 (11th Cir. 1996). It is clear from plaintiff's complaint and the attachments thereto that Judge Galanos's actions were taken in his judicial capacity. Furthermore, Judge Galanos had jurisdiction to issue warrants notwithstanding plaintiff's attempt to remove the criminal prosecution to federal court. See 28 U.S.C. § 1446 (c)(3) ("filing of a notice of removal of a criminal prosecution shall not prevent the State court...from proceeding further"). Consequently, the Court finds that Judge Galanos is immune from

liability based on the doctrine of judicial immunity.

The state of Alabama is likewise entitled to immunity from suit under §1983. The Eleventh Amendment provides state immunity from suit unless a state has consented to be sued or has waived sovereign immunity or where Congress has expressly abrogated states' immunity. Cross v. Alabama, 49 F.3d 1490, 1502 (1995). None of these exceptions apply here, and the state of Alabama is immune from suit. *Id.*

Notwithstanding plaintiff's request that he be permitted to amend his complaint, the Court finds that the action is due to be dismissed. In his response to the motion to dismiss, fails to assert any facts or claims that might overcome defendants' immunity defenses. Therefore, it is ORDERED that the plaintiff's claims against Chris Galanos and the State of Alabama be DISMISSED, Judgment shall be entered by separate order.

DONE this the 26th day of August, 1998.

Charles Butler
CHIEF DISTRICT JUDGE

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DISTRICT

STATE OF ALABAMA/UNITED STATES ON THE RELATION OF LARRY D. SIMPSON AND LARRY D SIMPSON IN HIS INDIVIDUAL CAPACITY	) CIVIL ACTION NUMBER: 98-0634-CB-M
vs.	
CHRIS N. GALANOS IN HIS OFFICIAL CAPACITY AND IN HIS INDIVIDUAL CAPACITY AND STATE OF ALABAMA DEFENDANTS	) HEARING REQUESTED ENTERED DATED SEPTEMBER 8, 1998

MOTION TO SET ASIDE JUDGMENT AND REINSTATE CASE TO
ACTIVE FEDERAL TRIAL DOCKET

COMES NOW LARRY D. SIMPSON, hereinafter referred to as Plaintiff, by his attorney, and moves the court to set aside judgment and reinstate the above cause to the trial docket and for grounds say as follows.

1. That the final judgment ordered by this honorable court purporting to refer to this case action summary is vague, ambiguous, and commingled with unannounced and intertwined matters which the Court intervened without notice to the plaintiff,. Specifically, the following defects, in addition to the whole Final Judgment/Order are set forth below.

2. The final judgment/order fall short of accepting that Defendant Chris Galanos was sued in his individual (personal) capacity. See Complaint filed and certified copy of docket sheet attached hereto as though fully set out herein.

3. The final judgment/order/fall short of accepting that the defendant State of Alabama was sued and said defendant is in default as noted by the judge (final judgment/order).

4. This honorable Court had no reason to go beyond the complaint and answer of defendant Chris Galanos since this case rests at pre-trial stage

status and free of discovery and the benefit of sworn pleading(s). The complaint of the plaintiff is clear and supported with documents of authority and properly before this federal court. See case of Colburn v. Upper Darby Township, 838 F.2d 663 (3d Cir. 1983); Dewey v. University of N.H. 694 F. 2d 1, 3 (1st Cir. 1983) ("plaintiff must allege minimal facts, not subjective characterizations, as to who did what to whom and why", cert. denied, 461 U.S. 944 (1983); Scott v.Rieht 690 F. Supp. 368, 370 (E.D. Pa. 1988) ("Plaintiff must state the conduct violating his civil rights, when and where the conduct occurred, and who was responsible"); LaPlant v Frazier, 564 F. Supp. 1095, 1097 (E.D. Pa. 1983). The plaintiff sued the defendants.

5. The final judgment/order is in substantial error as to the suggestion of a plaintiff "waiver" (plaintiff does not dispute that his claims arise from Final Judgment/Order p1 ¶7 line 7) since the trial docket does not reflect that the plaintiff was given an order

to show cause as to the honorable judge's thoughts and concerns however viewed. See the case of Town of Newton v. Rumery, 480 U.S. 386, 107 S. Ct. 1187, 94 L. Ed. 2d. 405(1987).

6. Plaintiff filed a civil rights complaint and said complaint does not aim to "try" plaintiff's case in the complaint' thus this honorable court's final judgment/order is not supported by the evidence nor record file of this case.

7. The plaintiff further moves this Court for an order extending the time in which he shall appeal to the Eleventh Circuit Court, to such time as ultimately may be set by the Court upon the just resolution of this timely filed motion and request.

8. The honorable Judge Butler's final judgment/ order is somewhat the product of pre-fab "order" not relevant and baseless but pointed and tailored-made and wild in view of the common practice relating to complaint purpose.

See Fed. R. Civ., P. 8 (a) which advises that counsel should take care not to go the other extreme, since the requirement of Rule 8 of a "short and plain" statement will be violated by "needlessly long, repetitious, or confused complaint". 5C Wright & Miller, Federal Practice and Procedure § 1217, at 169-72 (1969). Thus plaintiff must officially object in full to the final judgment/order/rationale of Judge Butler and state that his rationale is unsupported by the documented file of this case.

WHEREFORE PREMISES CONSIDERED, plaintiff Simpson pray that cause has been shown why this motion should be granted.

Respectfully submitted

_____

LARRY D. SIMPSON
COUNSEL FOR PLAINTIFF

APPENDIX C

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LARRY D. SIMPSON)
Plaintiff,)
) CIVIL ACTION NO. 98-0634-CB-M
)
CHRIS GALANOS and)
the STATE OF ALABAMA)
Defendants)

ORDER

This matter is before the Court on plaintiff's motion to set aside the judgment entered in this case (Doc. 18). Plaintiff asserts that the Court erred in dismissing his claims against the defendants for failure to state a claim upon which relief can be granted. After reviewing the issues set forth in plaintiff's motion, the Court is not persuaded that its decision was in error. Accordingly, the motion to set aside the judgment is DENIED.

In his motion, plaintiff, requests that the Court extend the time for filing a notice of appeal "to such time as ultimately may be set by the Court upon the just resolution of this timely filed motion and request." Pltf's Mtn. ¶ 7. Rule 4(a)(1) of the Federal Rules of Appellate Procedure provides that a party has 30 days from the entry of judgment to file a notice of appeal. However, if a party files a post-judgment motion to alter or amend the judgment or for relief from judgment, the time for appeal runs from the date the Court enters is ruling on that motion. Fed. R. App. P. 4(a)(4). The Court treats plaintiff's motion as a motion to alter or amend the judgment or, alternatively, as a motion for relief from judgment. Hence, the 30-day time period for filing a notice of appeal runs from the date of this order.

DONE and ORDERED this the 9th day of September, 1998.

Charles Butler

CHIEF DISTRICT JUDGE

APPENDIX D

PETITIONER EXCERPTS OF COURT OF APPEAL BRIEF ENTERED DATED JANUARY 4, 1999

STATEMENT OF THE FACTS

Is the Course of Proceedings. There was no trial of this cause.

SUMMARY OF THE ARGUMENT

The District Court erred in dismissing Appellant Simpson's Civil Right Complaint with Exhibits for failure to state a claim upon which relief could be granted. The evidence of record clearly shows that the District Court decision was error.

SUMMARY OF THE ARGUMENT

The District Court Judge misconstrued the record evidence and the final ruling is in error.

ARGUMENT

Appellant was under federal removal protection when all acts and things complained of occurred. Furthermore, the state law provides that "If the defendant who has appealed from a conviction fails without cause to pursue the appeal at trial the remedy is dismissal of the appeal and automatic reinstatement of the judgment appealed from." Alabama (Rule 30,5) Section 12-12-70 all of which is cited in Appellant's Complaint.

Applying case law to the district court record you will find that the district court judge reasoned that the complaint was due to be dismissed due to immunity for the Appellees but this was error. Applying both federal and state law. The case of Stump v. Sparkman, 415 U.S. 349. 44 L.Ed. ed 331, 98 Ct. 1099, reh den 436 U. S. 151, 98 CT 2862 (1978)., and Sparkman v. McFarlin, 558 So. 2d. 172 (1977),

does provide exception to the immunity rule cited by District Court Judge Butler. Also, if the Appellees disregard the federal removal they would not escape lack of jurisdiction predicament because the Appellant safeguard rested with the municipal/ district from the federal removal.

Appellant submits that the judgment in this case was thus based upon an erroneous finding of fact.

CONCLUSION

The District Judge 's conclusion of law in this case was clearly based upon erroneous finding of fact. This case should be reversed and this case should be remanded for trial of this cause before a new judge.

Respectfully submitted

LARRY D. SIMPSON
Address of Counsel
1255 Quail Street
Mobile, Alabama 36605

APPENDIX E

PETITIONER ANSWERS BRIEF OF EXCERPTS
ENTERED DATED FEBRUARY 25, 1999

ARGUMENT

Federal Removal Appellant, maintains that the District Court errored in the dismissal, of Appellant's Civil Rights Complaint. In applying the Standard of Review Test, the Federal Court must look to the sufficiency of a complaint before reception of any evidence, either by Affidavit or admissions, its tasks is necessarily a limited one.

"The issue is not whether a Plaintiff will ultimately prevail, but whether the Claimant is entitled to offer evidence to support the claims. Indeed it may appear on the pleading, that recovery is very remote and unlikely, but that is not the test. Moreover, it is well established that in passing on a ground of lack of Jurisdiction, over the subject matter, or failure to state a cause of action.

The allegation of the Complaint should construed favorable to the Pleader." See Scheuer vs. Krause, 416 U.S. 232, 236, 94 S.Ct. 1683, 1686, 40 L.Ed. 2nd 90 (1974).2. Appellee State of Alabama, in its brief has offered facts that is not apart of the official U.S. District Court record, in an effort to cloud the issues and mislead the Court. (See Official U. S. District Court record).

Therefore, pursuant to FRAP. 29, Appellee State of Alabama brief should be viewed as Amicus Curiae brief. As a result, Appellant has not waived his rights to object nor give consent to the State of Alabama. Appellee Chris N. Galanos' brief is due to be stricken, for the adoption of facts not in the official U. S. District record. Appellant's case requires a look at the Legislative intent of Title 42 U.S.C. 1983.

The interpretation of Federal Constitutional and statutory provisions, alleged to be the source of rights enforceable under Title 42 U.S.C. 1983.

Which presents questions of Federal Law that may require some State law sources. The State Law may not immunize individuals from liabilities, where Congress has established liability under Title 42 U.S.C. 1983. See Howlett vs. Rose, 110 Supp. Ct. 2430, 2443 (1990). The Legislative intent, of Title 42 U.S.C. 1983, is to interpose the Federal Courts, between the States and people as Guardians of the People's Federal Rights, to protect the people from Unconstitutional action under color of State Law.

Appellant in fear of bodily harm and State retaliatory action, filed a Federal Removal pursuant to Title 28 U.S.C. 1446. Appellant was convicted in Municipal District Court. Appellant filed an Appeal notice directly to the Alabama Criminal Court of Appeal, and a docketing statement citing issues to be decided as a matter of Law. See attached exhibit 5.

Finally, Appellant submits that the Doctrine of Judicial Immunity, does not apply to Appellees.

Appellant had a right to be a free of unauthorized State actors. The Federal Removal guaranteed Due Process and Equal Protection under the Law. Obviously, Appellee Chris N. Galanos, was an unauthorized State actor, and was not acting in his Judicial capacity. Therefore, Chris N. Galanos lacked Jurisdiction over Appellant, and thereby liability, as set forth in Stump vs. Sparkman, 435 U.S. 349 (1978) does apply to Appellees.

In conclusion, Appellant states that for all of the reasons espoused above, Judgment of the U.S. District Court, in this case should be reversed.

Respectfully Submitted,

Larry D. Simpson
Attorney for Appellant
1255 Quail Street
Mobile, Alabama 36605
Ph. (334) 470-7287

APPENDIX F

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
NUMBER 98-6802

LARRY D. SIMPSON Appellant	)	
	)	Number 98-6802
v.	)	
	)ORAL ARGUMENT REQUESTED	
CHRIS N. GALANOS, Individual and Official Capacity and State of Alabama Appellees	)	ENTERED DATED OCTOBER 26, 1999

SUBMITTED FOR FULL COURT REVIEW
and respectfully Requested
Motion for Reconsideration-Rehearing

Your appellant seeks reconsideration of the October 8, 1999. Order of this honorable Court. The following argument is delivered below.

ARGUMENT

The Order of this court only recite the general law known as defenses which include immunity and dismissal. In this case, appellant contends clear and obvious error.

The record evidences including the complaint and exhibits filed in District Court by your appellant meets or exceeds the "notice pleading" standard see Haines v. Kerner, 30 L.Ed 2d 652 (1972). Your appellant's complaint with exhibits attached does not pursue a theory of mistake or fraud and thus, Leatherman v. Tarrant County , 122 L.Ed. 2d 517 (1993) is the case law rule to be followed.

Your appellant complaint with exhibits clearly meet or exceed the two prerequisites to a valid 42 U. S.C. § 1983 action.

The learned district court judge failed to follow the accepted rule that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, 2 L.Ed. 2d 80 (1957) (footnote omitted). It is further well established that, in passing on a motion to dismiss for failure to state

a cause of action, the allegations of the complaint should be construed favorably to the pleader. See Scheuer v. Krause, 40 L.Ed 2d 90 (1974).

This honorable court made clear error in its October 8, 1999 ruling in regards to the Eleventh Amendment position and immunity position. See again your appellant complaint with exhibits, I quote the law: The applicability of the Eleventh Amendment to official capacity actions turns on the nature of relief sought namely, prospective or retrospective remedies. See Quern v. Jordan, 59 L. Ed 2d 358 (1979). See also Ex parte Young 52 L.Ed 714 (1908). Your appellant's complaint and relief sought speaks for itself. Your appellant does not seek to contest the constitutionality of the immunity defense law nor the law of the Eleventh Amendment and their application; however, your appellant does submit that the record evidence and relief pray of your appellant as of record

Your appellant does not seek to contest the constitutionality of the immunity defense law nor the law of the Eleventh Amendment and their application; however, your appellant does submit that the record evidence and relief pray of your appellant as of record support the contention of your appellant.

A true and correct copy of your appellant's complaint filed with exhibits is attached hereto and made a part of this motion for review of the record evidence should lead to a reversal of the October 8, 1999 ruling. Wherefore, your appellant pray for a full court review of this appellate matter and render equal justice under the law.

_____

Your Appellant
1255 Quail Street
Mobile, Alabama 36605

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

STATE OF ALABAMA/UNITED STATES)		
ON THE RELATION OF	)	
LARRY D. SIMPSON	)	CIVIL ACTION
In His Individual Capacity	)	
Plaintiff	)	NO. 98-0634-CB
vs.	)	
	)	JURY DEMAND/REQUESTED
CHRIS N. GALANOS	)	
and STATE OF ALABAMA	)	
Defendants	)	

CIVIL RIGHTS COMPLAINT

1. Plaintiff is over the age of 19 years, resides in Mobile, County, Alabama, and is a citizen of the United States of America, and a resident of the State of Alabama.

2. Defendant, State of Alabama, a deep South State, holding a membership with the U.S. Government, and is being sued solely in that capacity.

3. Defendant Chris Galanos, is an elected state employee and citizen of Mobile County, and is being sued in his official capacity and in his individual capacity.

4. Any and all acts complained of by Plaintiff took place within the Federal Jurisdiction, known as the Southern District, of Alabama, and the 13th Judicial Circuit Court of Mobile County, of Alabama.

5. June 17, 1997, through present, represents date of the alleged violation, of the Civil Rights of said Plaintiff.

6. On June 17, 1997, Plaintiff purchased Federal Judicial Insurance protection, from the State, and its employees, harm and invidious acts, by way of Federal Removal Election.

7. On the 24th of June 1997, Defendant Chris Galanos, intentionally and recklessly disregarded Plaintiff's Federal Insurance Notice. (Certificate of Service upon Chris Galanos), and thus signed a bench warrant against Plaintiff, thus causing Plaintiff personal injury and property damage in violation of Plaintiff's Civil Rights as purchased and Insured by the Federal Judicial District, known as the Southern District of Alabama.

8. The Defendant State of Alabama refuses to be subject to the Federal Government and its Federal Rules of Procedure, where Plaintiff had so petitioned for Federal Removal, and perfected said Federal Removal.

9. Exhibits 1 through 12, shows the events and actions that support the cause of this Civil Rights Suit.

(A) Plaintiff was accused of practicing law without a license, a misdemeanor before Mobile County District Court.

(B) Plaintiff exercised his right and by-passed the local Circuit Court of Mobile County, Alabama, and appealed his disfavorable decision to the Alabama Court of Criminal Appeals. See Ala. Code 1975 12-12-70. Rule 30-2-18. Form 106 of Ala. Criminal Procedure.

(C) The Alabama Court of Appeal docketed the appeal-and so noted said appeal. The local district and Circuit Court of Mobile County, Alabama. Jurisdiction was thus passed to the Appellate Court.

(D) The local District Court of Mobile and the local Circuit Court of Mobile had no Jurisdiction over plaintiff at that time and said Jurisdiction rested solely with the Alabama Court of Criminal Appeals.

(E) A Filing for request for the local District Court of Mobile County, to send up the record was met with disbelief, by the local District Court of Mobile County and communication became strained.

(F) On June 17, 1997, Plaintiff perfected a Federal Removal of said appealable matter with the U.S. Federal District Court, Southern District. Notices of said Federal Removal was sent to all interested

parties, including local District and Circuit Court, of Mobile County, Alabama.

(G) On June 17, 1997 Plaintiff's rights, concerns and legal protection and rights to confront, defend and plead to the appealable charge rested with the Federal Court and not the local District and Circuit County, of Mobile County.

(H) With knowledge of the Federal Rights and Judicial Protection, enjoyed by Plaintiff as of June 17, 1997 through June 1998, Chris Galanos and the State of Alabama purposely invaded Plaintiff's real property and person and caused Plaintiff to sustain great injury an undue hardship, due solely to their Intentional act of violating Plaintiff's Civil Rights and Federal Insurance Protection against Jurisdiction Infringement, after Plaintiff elected not to participate in the local Courts, located in Mobile County, Alabama.

(I) The Judicial Infringement and disregard for Plaintiff's election, not to participate with said local District and County Court, shows that Chris Galanos and the State of Alabama intended the personal injury outcome for the Plaintiff as suffered and sustained by Plaintiff after the evasion of Plaintiff's Federal Protection privilege, as purchased June 17, 1997, and made known to the Defendants on or about June 17, 1997.

(J) Plaintiff further claims that both the State of Alabama and Chris Galanos is liable for damages

for injury done to and wrong suffered by Plaintiff, because said injury and wrong was done, through the neglect, carelessness and unskillfulness of the State of Alabama, and Officer Chris Galanos, while acting in the line of duty, engaged in work therefore and while in the line of duty.

(K) The State of Alabama failed to train, educate, supervise, and discipline Chris Galanos an employee of the State of Alabama.

(L) Chris Galanos and the State of Alabama, failed to follow the Federal and State law, relating to Federal Removal and the protections afforded a Federal petitioner, as in the case of Plaintiff and further, the State of Alabama and Chris Galanos violated Plaintiff's Federal Civil Rights, in every way, including Race Discrimination, equal protection, and Constitutional Rights.

Wherefore Plaintiff demands judgment against Defendants and such other and different relief, to which Plaintiff, maybe entitled.

Plaintiff demands trial by struck jury.

Counsel for the Plaintiff
1255 Quail Street
Mobile, Ala 36605
Ph. (334) 470-7287

EXHIBIT D
IN THE DISTRICT COURT OF MOBILE COUNTY

State of Alabama)
v.)
LARRY DARNELL SIMPSON)

DC 96 010995
Case Number

NOTICE OF APPEAL TO THE COURT
OF CRIMINAL APPEALS OF ALABAMA
(DIRECT APPEAL FROM DISTRICT COURT)

Conviction or Order Appealed From Aiding unath.

Date of Notice of Appeal 3-28-97

Date Motion for New Trial Filed _____

Date Motion for New Trial Denied_____

(x) An adequate record or stipulation trial have waived their right to trial by jury
Or
( ) The parties have stipulated that only questions of law are involved, and the district/municipal court from which this appeal is taken has certified the question.

_____

Defendant Ludie Rowe-IN FACT
P. O. Box 363
Mobile, AL 36601
(334) 473-6869

APPENDIX G

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 98-6802-CC

LARRY D. SIMPSON	)	Plaintiff-Appellant
	)	
versus	)	
	)	
CHRIS N. GALANOS and STATE ALABAMA	)	Defendants-Appellees

On Appeal from the United States District Court for the Southern District of Alabama

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

(Opinion_____, 11th Cir., 19____, ____ F. 2d____)

Before: ANDERSON, Chief Judge,
DUBINA AND BARKETT, Circuit Judges

PER CURIAM:

The Petition(s) for Rehearing are DENIED and no member of this panel nor other Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the Petitions for Rehearing EnBanc are DENIED.

ENTERED FOR THE COURT: December 8, 1999

Rose Barkett
UNITED STATES CIRCUIT JUDGE

APPENDIX H

United States Court of Appeals
For the Eleventh Circuit

No. 98-6802
Non-Argument Calendar

District Court Docket No. 98-00634-CV

LARRY D. SIMPSON,

Plaintiff-Appellant,

versus

CHRIS N. GALANOS and
STATE OF ALABAMA,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Alabama

Before ANDERSON, Chief Judge,
DUBINA and BARKETT, Circuit Judges.

JUDGMENT

This cause came to be heard on the transcript of the record from the United States District Court for the Southern District of Alabama, and was taken under submission by the Court upon the record and briefs on file, pursuant to Eleventh Circuit Rule 34-3;

UPON CONSIDERATION WHEREOF, it is now hereby ordered and adjudged by this Court that the order of the said District Court appealed from in this cause be and the same is hereby AFFIRMED;

IT IS FURTHER ORDERED THAT the plaintiff-appellant pay to the defendants-appellees, the costs on appeal to be taxed by the Clerk of this Court.

Entered: October 8, 1999
For the Court: Thomas K. Kahn, Clerk

By: Matt Davidson
Deputy Clerk

ISSUED AS MANDATE: DEC 29,1999